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AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

SEPTEMBER 23, 2008.—Ordered to be printed

Mr. DODD, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany Treaty Docs. 108–5, 109–11, and 110–16]

The Committee on Foreign Relations, to which were referred the amendments to the Constitution and the Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), signed by the United States at Minneapolis on November 6, 1998, and contained in the Final Acts of the Plenipotentiary Conference (Minneapolis 1998) (the "1998 Amendment") (Treaty Doc. 108–5); amendments to the Constitution and the Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994) and the Plenipotentiary Conference (Minneapolis 1998), signed by the United States at Marrakesh on October 18, 2002, and contained in the Final Acts of the Plenipotentiary Conference (Marrakesh 2002) (the "2002 Amendment") (Treaty Doc. 109–11); and amendments to the Constitution and the Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), the Plenipotentiary Conference (Minneapolis 1998), and the Plenipotentiary Conference (Marrakesh 2002), signed by the United States at Antalya on November 24, 2006, and contained in the Final Acts of the Plenipotentiary Conference (Antalya 2006) (the "2006 Amendment") (Treaty Doc. 110–16), having considered the same, reports favorably thereon subject to declarations and reservations, as indicated in the resolutions of advice and consent for each treaty, and recommends the Senate give its advice and consent to ratification thereof, as set forth in this report and the accompanying resolutions of advice and consent.

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I. PURPOSE

These three sets of amendments to the Constitution and the Convention of the International Telecommunication Union (the "ITU") are generally designed to: (1) facilitate further private-sector involvement in the organization; (2) improve the efficiency, flexibility, and effectiveness of the ITU as a functioning organization; and (3) promote greater fiscal stability and transparency at the ITU.

II. BACKGROUND

The International Telecommunication Union (the "ITU"), based in Geneva with a membership of 191 countries, is the principal international organization in the area of information and communication technologies, providing a forum for global cooperation and coordination and the promotion of more effective and efficient use of such technologies generally. The ITU was founded in 1865. The original treaty was signed by 20 European countries[1] approximately twenty years after the first public message over a telegraph was sent between Washington and Baltimore[2] and called for common rules for European telegraphy. Over the next few decades the periodic conferences held by States that were parties to the original treaty or the treaties that subsequently superseded the 1865 treaty along with a Secretariat that provided administrative support, became known as the "International Telegraph Union." On a parallel track, radio communication technology was developing and in 1906, the first Radiotelegraph Conference was convened to establish rules governing the international use of radio. A Radiotelegraph Convention and Radiotelegraph Regulations were adopted at the 1906 conference in Berlin. The United States joined the Radiotelegraph Convention in 1912[3] and also became a member of the Inter-

[1] 130 CONSOLIDATED TREATY SERIES 198 (1864–1865) (French) (Clive Parry ed., Oceana 1969). The original treaty, the International Telegraph Convention, was signed on May 17, 1865 by the following countries: France, Austria, The Grand Duchy of Baden, Bavaria, Belgium, Denmark, Spain, Greece, Hamburg, Hanover, Italy, the Netherlands, Portugal, Prussia, Russia, Saxe-Hildburghausen, Sweden-Norway, Switzerland, Turkey, and Württemberg. It appears, however, that it was not until 1868, in a new iteration of the 1865 treaty, that the International Telegraph Union was founded, which was at the time known as the "Berne Bureau" because it was located in Berne. *See* Leive, INTERNATIONAL TELECOMMUNICATIONS AND INTERNATIONAL LAW: THE REGULATION OF THE RADIO SPECTRUM 31–32 (Oceana 1970).

[2] *See* FROM SEMAPHORE TO SATELLITE 28 (International Telecommunication Union 1965). The first public message over a telegraph was sent between Washington and Baltimore by Samuel Finley Breeze Morse (1791–1872), who developed the famous Morse code. Morse had obtained $30,000 in 1843 for a telegraph line from Washington to Baltimore, which was opened on January 1, 1945. Reportedly, the "first message sent by Morse was the phrase 'What hath God wrought'." These were apparently the same words that President Kennedy used in the first telephone conversation over a SYNCOM satellite on August 23, 1963. *Ibid.*

[3] The United States signed the International Wireless Telegraph Convention in 1906 (also known as the International Radiotelegraph Convention), and after receiving the advice and consent of the Senate, the President ratified that Convention in 1912. *See* Ex. A, 60–1. The International Wireless Telegraph Convention was signed by many of the same countries in Europe

national Telegraph Union that same year.[4] At a conference in 1932, it was decided to combine the International Telegraph Convention and the International Radiotelegraph Convention to form the International Telecommunication Convention.[5] The Conference further decided that the name of the Union should be changed to "International Telecommunication Union" (the "ITU") in order to reflect the full scope of the Union's responsibilities, which by this time covered all forms of wireline and wireless communication. Under an agreement with the United Nations, the organization became a UN specialized agency on October 15, 1947.[6]

Today, some 140 years after its creation, the fundamental objectives of the ITU remain the same, but the scope of the organization's mandate is much broader, commensurate with the expansive development of telecommunication technologies over the decades. The ITU provides a forum for global telecommunication standardization activities; for the international allocation, management, and use of spectrum, including broadcasting, satellite sound broadcasting, mobile satellite services, and space services; and, in the case of developing countries, for the promotion and provision of technical assistance in the area of telecommunications.

In 1992, the ITU underwent a major reorganization, which was undertaken in response to significant changes and developments in the telecommunications area. There are now two treaties that provide the legal basis for the organization: the ITU Constitution and Convention. The United States is a party to both instruments, which contain complementary provisions.[7] The ITU Constitution sets out overarching principles governing the ITU's basic structure, purpose, and functions, while the Convention provides greater detail regarding the functional and procedural implementation of the broad structure set forth in the Constitution.

The top policy-making body of the ITU is the Plenipotentiary Conference, which meets every four years and consists of representatives of States that are party to the ITU Constitution and Convention. The executive body of the ITU, the ITU Council, meets annually and governs the organization in the interim between Plenipotentiary Conferences. The Council is composed of Member States elected by the Plenipotentiary Conference; the United States currently has a seat on the Council. The Council facilitates the implementation of the Constitution, the Convention, Administrative Regulations (International Telecommunications Regulations and Radio Regulations), Plenipotentiary Conference decisions and, where appropriate, decisions of other conferences and meetings of the Union. The General Secretariat of the ITU, run by the Secretary-General,

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that had signed the International Telegraph Convention of 1865, but also included Great Britain, Brazil, Uruguay, Persia, and of course, the United States.

[4] On July 5, 1912, the United States signed the International Radiotelegraph Convention, which was the latest iteration of the 1865 International Telegraph Convention. This Convention was submitted to the Senate by President Taft on January 11, 1913. *See* Ex. A, 60–3. The transmittal notes, among other things, that advances in the development of radiotelegraphy had been "greatly aided as a result of the extremely efficient accomplishments of the radio section of the Berne International Bureau of the Telegraphic Union." *Id.* at p. 52.

[5] The International Telecommunication Convention, Ex. B, 73–2, was signed by the United States at Madrid on December 9, 1932, approved by the Senate on May 1, 1934, and ratified by the President shortly thereafter.

[6] Agreement between the United Nations and the International Telecommunication Union, signed on April 26, 1949, 316 U.N.T.S. 175.

[7] The 1992 ITU Constitution and Convention, along with amendments to both instruments concluded in 1994, were submitted to the Senate by the President on September 13, 1996 (Treaty Doc. 104–34) and approved by the Senate on October 23, 1997.

is the administrative arm of the organization. The work of the ITU is carried out within three ITU sectors:

The Radiocommunication Sector (ITU-R)

The Radiocommunication Sector's primary objective is to manage the international radio-frequency spectrum and satellite orbits, so as to maximize effective use of these resources while minimizing interference in the operation of radiocommunication systems. The Sector uses instruments such as the Radio Regulations and regional agreements, which are updated periodically, to implement its objective.

The Telecommunication Standardization Sector (ITU-T)

The Telecommunication Standardization Sector is responsible for making recommendations regarding universal standards for telecommunications. The World Telecommunication Standardization Assembly meets every four years to define the general policy for the Sector, establish study groups on that basis, and approve the work expected to occur before the next Assembly.

The Telecommunication Development Sector (ITU-D)

The Telecommunication Development Sector is responsible for generally assisting developing countries in developing information and communication technologies, narrowing the digital divide, and increasing the information flow to and from developing countries.

III. Major Provisions

Detailed summaries of the 1998 Amendment, the 2002 Amendment, and the 2006 Amendment may be found in the relevant Letters of Submittal from the Secretary of State to the President, which are reprinted in full in Treaty Documents 108–5, 109–11, and 110–16. As described above in Section I, these amendments are generally designed to facilitate further private-sector involvement in the ITU, improve the efficiency, flexibility, and effectiveness of the ITU's functioning, and promote greater fiscal stability and transparency at the ITU. A brief description of key provisions of the amendments that accomplish these objectives is set forth below.

A. FACILITATION OF PRIVATE SECTOR INVOLVEMENT

Matching the remarkable developments in technology, private sector participation in the field of telecommunications has grown markedly over the past several decades. This growth is nowhere more apparent than in the increased interest shown by the private sector in assisting the ITU and Member States in addressing the evolving international telecommunication environment. Private entities can participate in the work of a particular sector as a Sector Member or as an Associate. In an effort to clarify the rights and obligations of these different memberships, facilitate private sector participation, and distinguish Sector Members from Member States, the 1998 Amendment amended Article 3 of the Constitution and Article 19 of the Convention so as to clearly define the roles of private sector participants in the work of the ITU. Specifically, Sector Members are generally entitled to participate fully in the activities of the Sector of which they are members, while Associates

are admitted by the Assembly or Conference of a Sector to participate in the work of a particular study group or subgroup of the Sector. In general, Sector Members have greater rights and obligations than Associates and pay more for their membership.[8] To date, there are 568 Sector Members and 153 Associates.[9] In response to questions from the committee regarding the role and importance of Sector Members and Associates in the work of the ITU, Senior Deputy U.S. Coordinator Richard Beaird responded as follows:

> Sector Members have an important role to play in all three ITU Sectors, but their participation relative to that of Member States varies from Sector to Sector. In the [Telecommunication Standardization Sector], since national networks have been privatized, Member States generally no longer engage in technical work (with some exceptions where there are national interests at stake, such as priority of communications in times of national disasters and emergencies, or identity management). Consequently, Sector Members are largely responsible for preparing technical contributions for telecommunications standards. In the [Radiocommunication Sector], both Sector Members and Member States have major stakes in obtaining and protecting radio spectrum. In the [Telecommunication Development Sector], with some notable exceptions, the private sector has historically been much less involved. This may be because the business case for assisting developing countries is much less obvious than the need to obtain spectrum for a new service (in the [Radiocommunication Sector]), or to establish an international standard for telecommunications equipment (in the [Telecommunication Standardization Sector]).
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> Associates [also] play an important role in the ITU standards development process. Creation of an Associate category has increased private sector participation in the ITU and brought into the ITU process entities with specialized expertise in particular fields of telecommunications. The private sector has benefited from the Associate category because it has allowed entities that have expertise in a particular telecommunications subject to participate in that part of the work of the ITU that is of interest to them, at a lower rate than they would have to pay as Sector Members.

The 1998 Amendment amended several other articles of the Constitution and Convention in order to further facilitate private sector participation in the ITU. For example, Article 20 of the Convention was amended to provide that a Sector, through its Bureau Director,

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[8] For the years 2006–2007, a contributory unit is valued at 63,600 Swiss Francs for Sector Members, while a contributory unit for Associates has been fixed at 10,600 Swiss Francs for the ITU Radiocommunication Sector and ITU Telecommunication Standardization Sector, 3,975 Swiss Francs for the ITU Telecommunication Development Sector and 1,987.50 Swiss Francs for Associates from developing countries participating in the ITU Telecommunication Development Sector.

[9] There is a publicly available list of Sector Members on the ITU's website at http://itu.int/cgi-bin/htsh/mm/scripts/mm.list?_search==SEC&—languageid=1 and Associates at http://www.itu.int/cgi-bin/htsh/mm/scripts/mm.list?_search=ASSOCIATES&_languageid=1.

may invite participation in a specified matter by organizations that do not generally participate in the Sector. Article 3 of the Constitution was amended to permit Sector Members to be chairs and vice chairs of Sector assemblies and meetings, and World Telecommunication Development Conferences. Additionally, Article 19 of the Convention was amended to provide that private entities applying for Sector Membership could, if their Member State had authorized such a process, apply directly to the Secretary General to become a Sector Member. In the Letter of Submittal from the Secretary of State to the President, which is reprinted in full in Treaty Document 108–5, it is noted that "for domestic policy reasons [the United States] will require that U.S. private sector entities seeking to become Sector Members apply for such membership through current procedures, which require the direct involvement of the U.S. government."[10] In response to questions from the committee, Senior Deputy U.S. Coordinator Richard Beaird further explained that the "U.S. has chosen to maintain minimal oversight over which U.S. entities are allowed to apply for ITU membership for a number of reasons" including that the United States, "which has more Sector Members than any other country, wants to be kept informed about what U.S. entities are participating in the ITU."

The 2002 Amendment and the 2006 Amendment further facilitate private sector involvement in the ITU, particularly with respect to private sector participation in meetings. For example, the 2002 Amendment amends Article 4 of the Convention to allow Sector Members to be represented as observers at meetings of the Council, its committees, and its working groups, subject to conditions to be established by the Council. The 2006 Amendment amends Article 4 of the Convention to clarify that Sector Members may attend—and not merely be represented at—meetings of the Council, its committees, and its working groups, subject to certain conditions. The 2006 Amendment additionally amends Article 23 of the Convention to clarify that observers of specified organizations, agencies, and entities may participate in Plenipotentiary Conferences in an advisory capacity; amends Article 24 of the Convention to clarify that observers of certain organizations and agencies, including international organizations, may participate in radiocommunication conferences in an advisory capacity; and amends Article 25 to clarify that observers from certain organizations and agencies may participate in an advisory capacity with respect to radiocommunication assemblies, world telecommunication standardization assemblies, and telecommunication development conferences.

Although the State Department has indicated that it views private sector participation in the ITU's activities as "crucial to the future success of the ITU," the Department has also noted in testimony that "if changes were made [to] the ITU's procedural rules that resulted in Sector Members gaining control over the ITU's processes, such changes would be a concern because they could prevent Member States from exercising their appropriate role as guardians of the public interest and national security." The Executive Branch has assured the committee in testimony that "[n]o such changes are currently envisioned."

[10] Treaty Doc. 108–5 at p. VII.

B. IMPROVING THE EFFICIENCY, FLEXIBILITY, AND EFFECTIVENESS OF THE ITU

Working Methods

All three amendments to the ITU Convention attempt to improve the working methods of the ITU. Specifically, the 1998 Amendment amends Article 20 of the Convention to explicitly recognize the right of Sector Members to participate in the adoption of questions to be studied in ITU study groups in accordance with procedures established by the relevant conference or assembly. The 1998 Amendment also amends Article 20 to permit a conference or assembly to adopt certain recommendations that are discussed in a study group without the formal consultation of Member States, so long as such recommendations have no policy or regulatory implications. These procedures allow the technical work of the ITU to proceed more efficiently. In response to a question from the committee, the Administration responded as follows regarding the utility of these procedures:

> Pursuant to Article 20 (in particular, paragraph CV 246-A and 246-D), Member States have established procedures for both study Questions and Recommendations to be adopted without formal consultation of the Member States where there is no doubt that the Questions and Recommendations involved lack policy or regulatory implications. In the ITU Telecommunication Standardization Sector, Questions may be adopted at Study Group meetings where there is consensus. . . . Recommendations may also be adopted without formal Member State consultation pursuant to the streamlined process set forth in ITU-T Recommendation A.8. Twenty-two Questions were adopted during the 2004–2008 period without formal Member State consultation.
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> In the ITU Telecommunication Standardization Sector, most Recommendations are highly technical and do not involve regulatory or policy issues, and are therefore approved under the streamlined process, i.e., by the Member States and Sector Members present at the Study Group meeting without further formal consultation of all Member States. In the period from 2004–2008, there were 840 ITU-T Recommendations approved using this process; a list of these can be provided if requested. It is estimated that this constitutes over 90% of the ITU-T's recommendations during this period. However, even in these cases, Member States may call for a formal Member State consultation process where they believe policy or regulatory issues are involved.

To facilitate the work of the three sectors and provide for greater flexibility, the 2002 Amendment amends the Constitution by adding a provision that specifically recognizes the authority of the Radiocommunication Assembly, the World Telecommunication Standardization Assembly, and the World Telecommunication Development Conference to establish and adopt working methods and procedures for their respective sectors, although they must be compatible with the Constitution, Convention, and Administrative Reg-

ulations.[11] The 2002 Amendment also amends Article 4 of the Convention to allow Member States that are not members of the Council to participate as observers at meetings of the Council, but without the right to vote.

The 2006 Amendment amends Article 5 of the Convention to clarify that the Secretary-General of the ITU, the Deputy Secretary-General, or a representative of the Secretary-General may participate in ITU conferences or other ITU meetings in an advisory, rather than a "consultative" capacity. In response to questions from the committee, the Department of State indicated that this amendment reflected a concern that the term "consultative" provided the Secretary-General with too strong of a role in the decision-making process of the organization and thus the term was replaced with "advisory," which is intended to indicate "that the Secretary-General and other ITU officials provide advice to the Member States but Member States need not consult them." Article 16 of the Convention is amended by the 2006 Amendment to provide that the world telecommunication development conferences may maintain, terminate, or establish study groups and allocate to them matters to be studied. In addition, the provision in the Convention relating to the functions of the Telecommunication Development Advisory Group (Article 17A) is amended to state that this Group shall act through the Director of the Telecommunication Development Bureau, thereby providing more direct control by the Director over the activities of the Telecommunication Development Advisory Group.

Scheduling of Meetings

Amendments were made to the Constitution in order to provide for greater flexibility in the timing of particular meetings. The 1998 Amendment amends Article 13 of the Constitution, for example, so as to require that World Radiocommunication Conferences and Assemblies be held "normally . . . every two to three years"[12] as opposed to "normally . . . every two years."[34] The purpose of this amendment was to promote flexibility and provide enough time between conferences for the necessary work to be done in preparation of the agenda. The 2006 Amendment modified these provisions yet again, to provide that World Radiocommunication Conferences and Assemblies shall be convened every three to four years.[14]

Functioning of the Radio Regulations Board

The Radio Regulations Board (the "RRB") is a body of the ITU that consists of elected members highly qualified in radiocommunications who have substantial expertise in issues relating to the assignment and use of radio frequencies. The duties of the RRB include, among other things, approving rules of procedure to be used in the application of the Radio Regulations and consideration of radiocommunication matters that cannot be re-

[11] *See* Chapter IVA of the Constitution as amended by the 1998 Amendment, Treaty Doc. 109–11 at p. 32. *See also* Articles 8(1bis), 13(1bis), and 16(1) of the Convention as amended by the 1998 Amendment, Treaty Doc. 109–11 at pp. 54, 58, and 60.

[12] Treaty Doc. 108–5 at p. 23.

[13] Treaty Doc. 104–34 at p. 32.

[14] *See* Treaty Doc. 110–16 at p. 4. Note, also, that this reduction in the number of World Radiocommunication Conferences and Assemblies would appear to have the added benefit of reducing the overall costs incurred by the ITU.

solved through the application of such rules. The 1998 Amendment enlarged the RRB from 9 individuals to not more than 12 or a number corresponding to six percent of the total number of Member States, whichever is greater,[15] which should enable the Board to handle the ever-increasing workload more effectively. The 2002 Amendment amends Article 9 of the Constitution to expand the field from which qualified individuals could be elected to serve on the RRB by removing the prohibition against having members of the RRB that are of the same nationality as the Secretary-General of the ITU. The 2002 Amendments also amended Article 14 so as to grant members of the RRB, when performing their official duties, functional privileges and immunities equivalent to those granted to the elected officials of the ITU by each Member State. This amendment is intended to ensure that the members of the RRB can continue to function independently, without fearing that entities that disagree with findings of the RRB may attempt legal action against them. The 2002 Amendment additionally amends Article 10 of the ITU Convention to authorize the RRB, at the request of one or more states, to consider appeals against decisions made by the Radiocommunication Bureau regarding frequency assignments.

Electing Officials of the ITU

Article 2 of the Convention provides that elected officials of the ITU (the Secretary-General, the Deputy Secretary-General, and the Directors of the Bureaus) shall be eligible for re-election only once.[16] The 2006 Amendment clarifies that this applies only to re-election for the same position.[17] Also, the amendment clarifies that the restrictions on re-election for a second term applies regardless of whether the terms are consecutive.[18] The 2006 Amendment similarly amended Article 3 to clarify that the existing restriction on re-election for a second term for members of the RRB applies regardless of whether the terms are consecutive.[19]

C. PROMOTING GREATER FISCAL STABILITY AND TRANSPARENCY

The ITU operates on a biennial budget that is approved by the Council every two years, which must remain within the limits set by the Plenipotentiary Conference for two budgetary cycles. The expenses of the ITU are largely financed through the contributions of Member States and Sector Members. Other sources of financing include income from the sale of publications and satellite notifications, as well as income from interest on late payments. A few years ago, the ITU had financial difficulties, but due in part to the amendments adopted in 1998, 2002, and 2006, the organization has made considerable progress and now its finances are reasonably stable. Senior Deputy U.S. Coordinator Richard Beaird testified to the committee that "the Union is in far better financial shape than it was certainly in 2002" and that in 2007, a balanced budget was adopted by the Council for the first time.

[15] At present, six percent of the total number of Member States is not greater than 12.
[16] *See* Treaty Doc. 104–34 at p. 91.
[17] *See* Treaty Doc. 110–16 at p. 8.
[18] *Ibid.*
[19] *Ibid.*

Classes of Contributions

The mechanism for assessing contributions of Member States and Sector Members of the ITU is unusual. At a meeting of the Council prior to each Plenipotentiary Conference, the Council approves a proposed budget or "draft financial plan" and provisionally sets the value of a "contributory unit" for Member States and Sector Members on the basis of the proposed budget and the total number of contributory units.[20] The units are incorporated into "classes" of contributions that range from one-sixteenth of a contributory unit to 40 contributory units, as set forth in Article 33 of the Convention. The Secretary-General then informs the Member States and the Sector Members of the provisional amount of the contributory unit decided upon by the Council and invites Member States to announce to the ITU the class of contribution they have provisionally chosen. Each Member State and Sector Member is free to choose a "class of contribution" from the scale of contribution units although, in accordance with the 1998 Amendment, there are some limitations on the ability of a Member State to choose a lower contribution class than was chosen by that Member State at the last Plenipotentiary Conference.[21]

Each amendment to the Constitution has consistently moved up the date by which Member States must inform the ITU of the class of contribution they will make to the organization, in an attempt to provide the Plenipotentiary Conference with more timely information. The 1998 Amendment amends Article 28 of the Constitution to require that Member States announce their final decision regarding what class of contribution they intend to make to the ITU at the Plenipotentiary Conference, rather than during the six-month period following the Plenipotentiary Conference provided for in the 1994 Constitution. The 2002 Amendment clarifies that the Plenipotentiary Conference is to set the date by which time Member States shall announce their class of contribution within the "penultimate week" of the Conference. The 2006 Amendment goes one step further and requires that the Plenipotentiary Conference set a date for Member States to announce their class of contribution at the latest on Monday of the final week of the Conference, thereby providing more time to incorporate any financial implications of the levels chosen into the organization's fiscal planning. The 2006 Amendment additionally amended Article 33 to identify with more precision the organizations and Sector Members that are obliged to share in defraying the expenses of the conferences, assemblies, and meetings in which they participate.

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[20] For the years 2006–2007, the budget of the Union stands at 339,435,000 Swiss Francs (approximately $308,129,495.20), with a contributory unit valued at 318,000 Swiss Francs for Member States and 63,600 Swiss Francs for Sector Members. In addition, the contributory unit for Associates has been fixed at 10,600 Swiss Francs for the ITU Radiocommunication Sector and ITU Telecommunication Standardization Sector, 3,975 Swiss Francs for the ITU Telecommunication Development Sector and 1,987.50 Swiss Francs for Associates from developing countries participating in the ITU Telecommunication Development Sector.

[21] *See, e.g.*, Article 28(5), as amended by the 1998 Amendment, which states that "[w]hen choosing its class of contribution, a Member State shall not reduce it by more than two classes of contribution and the Council shall indicate to it the manner in which the reduction shall be gradually implemented over the period between plenipotentiary conferences. However, under exceptional circumstances such as natural disasters necessitating international aid programmes, the Plenipotentiary Conference may authorize a greater reduction in the number of contributory units contribution at the class originally chosen."

Encouraging Additional Contributions and Savings on Costs

In an attempt to encourage Sector Member contributions, the 1998 Amendment amends Article 33 of the Convention to make clear that Sector Members should identify the Sector to which their contributions are to be made and provides that Associates shall share in defraying the expenses of the Sector and the study group and subordinate groups in which they participate, as determined by the Council. The 2002 Amendment went further by amending Article 28 of the Constitution to provide that Sector Members participating in regional conferences convened by the ITU to discuss telecommunication matters that are of particular interest to the region, must contribute to the costs of the regional conference. The 2002 Amendment also amended Article 4 of the Convention to provide that the ITU, which had been bearing the travel, subsistence, and insurance expenses incurred by the representative of every Member State of the Council, would only pay such expenses for developing country representatives of the Council. In response to committee questions on this topic, Senior Deputy U.S. Coordinator Richard Beaird described the savings this amendment has already provided for the organization as follows:

> Using today's conversion rate of [the] U.S. Dollar to [the] Swiss Franc (CHF) ($1 US = .97 CHF), the expected savings on travel expenses for the sixteen ITU Member States that are developed countries (at an average cost of $3,931) equals $62,896 per ITU council meeting. The ITU Council meets annually. Hence, the expected savings on daily subsistence allowance expenses for the sixteen ITU Member States that are developed countries (at $491/day over an average of 10 days), equals $78,560 per Council session. This results in a total savings of $141,456.

Greater Transparency and More Effective Financial Planning

To improve transparency and effective financial planning, the 2002 Amendment amends Article 5 of the Convention to provide that the Secretary-General prepare a four-year rolling operational plan "taking due account of the financial plan as approved by the plenipotentiary conference." This four-year operational plan is to be reviewed by the advisory groups of all three sectors and reviewed and approved annually by the Council. The 2002 Amendment similarly adds that the Director of each sector is required to prepare a rolling four-year operational plan annually, "including financial implications of activities to be undertaken by the Bureau in support of the Sector as a whole."[22] Senior Advisory Groups are required to review the operational plans of their respective sectors. The Council must also annually approve each Sector's rolling four-year operational plan.

In an effort to enhance oversight and increase the transparency of the budget of the ITU, the 2006 Amendment amends Article 4 of the Convention to require that the Council carry out an annual review of income and expenditures in order to make adjustments, as appropriate, in accordance with the resolutions and decisions of

[22] *See* Article 12, Article 15, and Article 18 of the Convention, Treaty Doc. 109–11 at pp. 58, 60, and 62.

the last Plenipotentiary Conference. In addition, Article 5 was amended to provide that, in preparing and submitting to the Council a biennial draft budget covering ITU expenditures, the Secretary-General shall include results-based as well as cost-based budget information.

IV. Entry Into Force

The 1998 Amendment entered into force on January 1, 2000, for those states that had notified the Secretary General of the ITU of their acceptance of the 1998 Amendment prior to January 1, 2000,[23] the 2002 Amendment entered into force on January 1, 2004, for those states that had notified the Secretary General of the ITU of their acceptance of the 2002 Amendment prior to January 1, 2004,[24] and the 2006 Amendment entered into force on January 1, 2008, for those states that had notified the Secretary General of the ITU of their acceptance of the 2006 Amendment prior to January 1, 2008.[25] Each amendment will each enter into force for the United States on the date the United States deposits its instrument of ratification with the Secretary-General of the ITU for that amendment.

V. Implementing Legislation

Existing legislation is sufficient to fully implement the 1998 Amendment, the 2002 Amendment, and the 2006 Amendment; no additional legislation is required. The 2002 Amendment, for example, amends Article 10 of the Convention so as to require that States Parties provide certain functional privileges and immunities to Members of the Radio Regulations Board equivalent to those granted to the elected officials of the ITU by each State Party. The United States, as made clear in a declaration included in the committee's draft resolution of advice and consent, would satisfy this requirement through the International Organizations Immunities Act, 22 U.S.C. § 288 *et seq.*

VI. Committee Action

The committee held a public hearing on these treaties on July 10, 2008. Testimony was received from Mr. Richard C. Beaird, Senior Deputy U.S. Coordinator for International Communications and Information Policy at the Department of State. A transcript of this hearing can be found in the annex to Executive Report 110–15.

On September 23, 2008, the committee considered these treaties and ordered them favorably reported by voice vote, with a quorum present and without objection.

VII. Committee Recommendation and Comments

The Committee on Foreign Relations believes that the ITU's work is important to advancing U.S. economic, national security, and scientific interests. For example, the ITU is urging regional

[23] *See* Part II of the Final Acts of the Plenipotentiary Conference (Minneapolis 1998), Treaty Doc. 108–5 at p. 43.

[24] *See* Part II of the Final Acts of the Plenipotentiary Conference (Marrakesh 2002), Treaty Doc. 109–11 at p. 38.

[25] *See* Part II of the Final Acts of the Plenipotentiary Conference (Antalya 2006), Treaty Doc. 110–16 at p. 6.

groups to collaborate and identify the necessary spectrum for International Mobile Telecommunications (IMT), which will allow use of advanced broadband mobile technology on a global basis. The U.S. telecommunications industry is also highly dependent upon the ITU for radio spectrum management. According to the Telecommunications Industry Association (the "TIA"), the worldwide telecommunications market is expected to grow at a 9.2 percent compound annual growth rate from 2008 to 2011 and U.S. companies expect to take full advantage of this growth.[26] The United States is among the leading providers and consumers of telecommunications goods and services. In fact, the U.S. telecommunications industry's revenue totaled $1 trillion in 2007. The ITU's management of radio spectrum is of vital importance to U.S. defense, intelligence, and aeronautics agencies. The ITU has also been a leader in the development of Standards for Emergency Telecommunications and related Telecommunications for Disaster Relief, all of which are important to national security. Finally, the Radio Regulations provide frequency band allocations to support the NASA space station, Lunar, and Martian space exploration programs, as well as the next generation of unmanned deep space exploratory programs. In sum, these three amendments improve and strengthen an organization that is important to U.S. interests. Accordingly, the committee urges the Senate to act promptly to give advice and consent to ratification of the 1998 Amendment, the 2002 Amendment, and the 2006 Amendment, as set forth in this report and the accompanying resolution of advice and consent.

A. Amendments to the ITU's Governing Instruments

The treaties before the committee reflect three separate sets of amendments made to the ITU's governing instruments in an eight-year period. According to information contained in answers to questions for the record from the committee to Senior Deputy U.S. Coordinator Richard Beaird, none of these sets of amendments has yet been ratified by as many as half of the ITU Member States, and to date only eight of 191 Member States have ratified the 2006 Amendments.

The committee is concerned that frequent amendments to the ITU's governing documents, and slow and inconsistent ratification of such amendments by ITU member states, may result in confusion and uncertainty with respect to the rules governing the ITU and the participation of member states in its activities. This situation also undermines transparency and public understanding of the ITU and its work by making it difficult to identify the operative rules at any given time on issues affected by such amendments. The committee notes that if the ITU continues its current practice of amending its governing documents as a matter of routine every four years, these problems may be compounded further. The committee urges the executive branch to review this ITU practice prior to the next ITU Plenipotentiary Conference and to engage with other ITU member states as appropriate to address this issue.

[26] According to the TIA, worldwide telecommunications revenue totaled $3.5 trillion in 2007, up 11.2 percent from 2006. *See* TIA Telecommunications Market Review and Forecast at 3 (2008).

B. Rules of Procedures of Conferences and Meetings of the ITU

The 1998 Amendment removes the Rules of Procedure of Conferences and Meetings of the ITU from the ITU Convention, with the exception of provisions relating to reservations and the right to vote, and transfers them to a separate instrument, which would not undergo the formal amendment process reserved for the Constitution and the Convention.[27] This separate legal instrument entered into force on January 1, 2000, for those states that had accepted the 1998 Amendment as of that date. The 2002 Amendment transfers further provisions of the Convention to the Rules of Procedure, including rules relating to invitations to conferences and assemblies, procedures for convening or canceling world conferences and assemblies, provisions for conferences and assemblies when there is not an inviting government, changes in the place or dates of a conference or assembly, and time limits and conditions for submission of proposals and reports to conferences. In the Letter of Submittal from the Secretary of State to the President, which is reprinted in full in Treaty Document 109–11, it is noted that "several Member States argued that [the] rules of procedure should be subject to a more flexible amendment process than that currently applied to the Constitution and Convention."[28]

In the Letter of Submittal from the Secretary of State to the President, which is reprinted in full in Treaty Document 108–5, it is noted that the executive branch does not expect to submit amendments to the Rules of Procedures to the Senate for advice and consent to ratification.[29] The committee recognizes that removing the Rules of Procedure of Conferences and Other Meetings of the ITU from the ITU Convention and transferring them to a separate document that is not subject to the formal amendment procedure provided for in the ITU Constitution and Convention makes it possible for the Rules of Procedure to be amended more rapidly as the ITU evolves than would otherwise be possible. The committee generally supports this development and agrees that amendments to the Rules of Procedure, which are largely procedural in nature, would not in the normal course require the advice and consent of the Senate. Nevertheless, if there is any question as to whether an amendment to the Rules of Procedure goes beyond what one would normally anticipate in such an instrument, the committee expects the executive branch to consult with the committee in a timely manner in order to determine whether Senate advice and consent is necessary.

C. Resolutions

The committee has included in proposed resolutions for the three amendments various statements, which are discussed below.

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[27] Prior to 1998, the Rules of Procedure for ITU Conferences and other meetings were contained in Article 32 (#340–406; 410–444; 447–467) of the ITU's 1994 Convention (Treaty Doc. 104–34), which is the most recent version of the ITU's Convention approved by the Senate and ratified by the United States. These provisions were deleted by the 1998 Amendment. *See* Article 32B of the 1998 Convention, SUP 341–467, Treaty Doc. 108–5 at p. 90.

[28] Treaty Doc. 109–11 at p. 7.

[29] *See* Treaty Doc. 108–5 at p. IX.

I. DECLARATIONS AND RESERVATIONS TO THE 1998 AMENDMENT

The proposed resolution of advice and consent for the 1998 Amendment includes five declarations and reservations, which were made by the United States when signing the Final Acts of the Plenipotentiary Conference in Minneapolis on November 6, 1998, and are intended to be included in the instrument of ratification, along with a final declaration that is not intended to be included in the instrument of ratification.

First and Second Statements (No. 90 (second and third paragraph)):

> (2) The United States of America reiterates and incorporates by reference all reservations and declarations made at world administrative conferences and world radiocommunication conferences prior to signature of these Final Acts.
>
> (3) The United States of America does not by signature or by any subsequent ratification of the amendments to the Constitution and Convention adopted by the Plenipotentiary Conference (Minneapolis, 1998) consent to be bound by the Administrative Regulations adopted prior to the date of signature of these Final Acts. Nor shall the United States of America be deemed to have consented to be bound by revisions of the Administrative Regulations, whether partial or complete, adopted subsequent to the date of signature of these Final Acts, without specific notification to the International Telecommunication Union by the United States of America of its consent to be bound.

The first proposed statement incorporates by reference all prior statements made at world administrative conferences and world radiocommunication conferences prior to signature of these Final Acts in November 1998. The second proposed statement makes it clear that the United States can only be considered bound by Administrative Regulations adopted at an ITU conference if the United States formally notifies the ITU of its consent to be bound.

Third Statement (No. 101):

> The United States of America refers to declarations made by various Members reserving their right to take such actions as they may consider necessary to safeguard their interests with respect to application of provisions of the Constitution and the Convention of the International Telecommunications Union (Geneva, 1992), and any amendments thereto. The United States of America reserves the right to take whatever measures it deems necessary to safeguard U.S. interests in response to such actions.

This proposed statement is intended, as described in the Secretary of State's Letter of Submittal, to reserve "for the United States the freedom to respond to other Member State reservations."

Fourth Statement (No. 102):

> The United States of America, noting Statement 81 entered by the delegation of Cuba, recalls its right to broadcast to Cuba on appropriate frequencies free of jamming or other wrongful interference and reserves its rights with respect to existing in-

terference and any future interference by Cuba with U.S. broadcasting. Furthermore, the United States of America notes that its presence in Guantanamo is by virtue of an international agreement presently in force and that the United States of America reserves the right to meet its radiocommunciation requirements there as it has in the past.

This proposed statement responds to a statement made by Cuba, which concerns the use of radio frequencies by the United States at the U.S. naval base at Guantanamo, Cuba. This response, which reserves certain U.S. broadcasting rights, is similar to responses made by the United States at prior ITU conferences.

Fifth Statement (No. 111):

The delegations of the above-mentioned States [the United States and 24 other States], referring to the declaration made by the Republic of Colombia (No. 50), in as much as this and any similar statement refers to the Bogota Declaration of 3 December 1976 by equatorial countries and to the claims of those countries to exercise sovereign rights over segments of the geostationary-satellite orbit, consider that the claims in question cannot be recognized by this conference.

Further, the above-mentioned delegations wish to affirm or reaffirm the declaration made by a number of delegations (No. 92) at the Plenipotentiary Conference (Kyoto, 1994) and declarations at conferences referred to therein as if these declarations were here repeated in full.

The above-mentioned delegations also wish to state that the reference in Article 44 of the Constitution to the "geographical situation of particular countries" does not imply a recognition of claim to any preferential rights to the geostationary-satellite orbit.

This proposed statement responds to a statement by Colombia concerning the use of the geostationary satellite orbit.

Final Declaration:

This Treaty is not self-executing.

This proposed declaration states that the 1998 Amendment is not self-executing. The Senate has rarely included statements regarding the self-executing nature of treaties in resolutions of advice and consent, but in light of the recent Supreme Court decision, Medellín v. Texas, *128 S.Ct. 1346 (2008), the committee has determined that a clear statement in the resolution is warranted. A further discussion of the committee's views on this matter can be found in Section VIII of Executive Report 110–12.*

II. DECLARATIONS AND RESERVATIONS TO THE 2002 AMENDMENT

The proposed resolution of advice and consent for the 2002 Amendment includes six declarations and reservations, which were made by the United States when signing the Final Acts of the Plenipotentiary Conference in Marrakesh on October 18, 2002, and are intended to be included in the instrument of ratification, along with a final declaration that is not intended to be included in the instrument of ratification.

First and Second Statements (No. 70 (second and third paragraph)):

(2) The United States of America reiterates and incorporates by reference all reservations and declarations made at world administrative conferences and world radiocommunication conferences prior to signature of these Final Acts.

(3) The United States does not by signature to or by any subsequent ratification of the amendments to the Constitution and Convention adopted by the Plenipotentiary Conference (Marrakesh, 2002) consent to be bound by the Administrative Regulations adopted prior to the date of signature of these Final Acts. Nor shall the United States of America be deemed to have consented to be bound by revisions of the Administrative Regulations, whether partial or complete, adopted subsequent to the date of signature of these Final Acts, without specific notification to the International Telecommunication Union of its consent to be bound.

The first proposed statement incorporates by reference all prior statements made at world administrative conferences and world radiocommunication conferences prior to signature of these Final Acts in October 2002. The second proposed statement makes it clear that the United States can only be considered bound by Administrative Regulations adopted at an ITU conference if the United States formally notifies the ITU of its consent to be bound.

Third Statement (No. 71):

In regard to the privileges and immunities to be extended pursuant to ADD No. 142A of Article 10 of the Convention of the International Telecommunication Union, the United States of America shall provide members of the Radio Regulations Board with functional privileges and immunities that are equivalent to those accorded to officials of international organizations that are designated under the International Organizations Immunities Act, 22 United States Code 288 *et seq.*

This proposed statement notes the manner in which the United States intends to implement the provision that requires that Member States, consistent with their respective national laws, grant members of the RRB functional privileges and immunities that are equivalent to those granted to the elected officials of the ITU.

Fourth Statement (No. 79):

The United States of America, noting Statement 72 entered by the delegation of Cuba, recalls its right to broadcast to Cuba on appropriate frequencies free of jamming or other wrongful interference and reserves its rights with respect to existing interference and any future interference by Cuba with U.S. broadcasting. Furthermore, the United States of America notes that its presence in Guantanamo is by virtue of an international agreement presently in force and that the United States of America reserves the right to meet its radiocommunication requirements there as it has in the past.

This proposed statement responds to a statement made by Cuba, which concerns the use of radio frequencies by the United States at the U.S. naval base at Guantanamo, Cuba. This response, which re-

serves certain U.S. broadcasting rights, is similar to responses made by the United States at prior ITU conferences.

Fifth Statement (No. 80):

> The United States of America refers to declarations made by various Member States reserving their right to take such action as they may consider necessary to safeguard their interests with respect to application of provisions of the Constitution and the Convention of the International Telecommunication Union (Geneva, 1992), and any amendments thereto. The United States of America reserves the right to take whatever measures it deems necessary to safeguard U.S. interests in response to such actions.

This proposed statement reserves the right of the United States to take such actions as it deems necessary in response to actions taken by other Member States that are detrimental to U.S. telecommunication interests.

Sixth Statement (No. 101):

> The delegations of the above-mentioned States [the United States and 27 other States], referring to the declaration made by the Republic of Colombia (No. 45), inasmuch as this and any similar statement refers to the Bogota Declaration of 3 December 1976 by equatorial countries and to the claims of those countries to exercise sovereign rights over segments of the geostationary-satellite orbit, consider that the claims in question cannot be recognized by this conference.
>
> The above-mentioned delegations also wish to state that the reference in Article 44 of the Constitution to the "geographical situation of particular countries" does not imply recognition of claim to any preferential rights to the geostationary-satellite orbit.

This proposed statement responds to a statement by Colombia concerning the use of the geostationary satellite orbit.

Final Declaration:

> This Treaty is not self-executing.

This proposed declaration states that the 2002 Amendment is not self-executing. The Senate has rarely included statements regarding the self-executing nature of treaties in resolutions of advice and consent, but in light of the recent Supreme Court decision, Medellín v. Texas, *128 S.Ct. 1346 (2008), the committee has determined that a clear statement in the resolution is warranted. A further discussion of the committee's views on this matter can be found in Section VIII of Executive Report 110–12.*

III. DECLARATIONS AND RESERVATIONS TO THE 2006 AMENDMENT

The proposed resolution of advice and consent for the 2006 Amendment includes five declarations and reservations, which were made by the United States when signing the Final Acts of the Plenipotentiary Conference in Antalya on November 24, 2006, and are intended to be included in the instrument of ratification, along with a final declaration that is not intended to be included in the instrument of ratification.

First and Second Statements (No. 70(1) (second and third paragraph)):

The United States of America reiterates and incorporates by reference all reservations and declarations made at world administrative conferences and world radiocommunication conferences prior to signature of these Final Acts.

The United States of America does not, by signature to or by any subsequent ratification of the amendments to the Constitution and Convention adopted by the Plenipotentiary Conference (Antalya, 2006), consent to be bound by the Administrative Regulations adopted prior to the date of signature of these Final Acts. Nor shall the United States of America be deemed to have consented to be bound by revisions of the Administrative Regulations, whether partial or complete, adopted subsequent to the date of signature of these Final Acts, without specific notification to the International Telecommunication Union of its consent to be bound.

The first proposed statement incorporates by reference all prior statements made at world administrative conferences and world radiocommunication conferences prior to signature of these Final Acts in November 2006. The second proposed statement makes it clear that the United States can only be considered bound by Administrative Regulations adopted at an ITU conference if the United States formally notifies the ITU of its consent to be bound.

Third Statement (No. 70(2)):

The United States of America, recalling the principles of accountability, responsibility and transparency that are fundamental to United Nations reform, notes that it is essential that the International Telecommunication Union, in carrying out the mandates of the Plenipotentiary Conference (Antalya, 2006) adhere to those principles in order to achieve lasting reform.

This proposed declaration states the view of the United States that the ITU, in carrying out the mandates of the Plenipotentiary Conference, should adhere to the principles of accountability, responsibility, and transparency.

Fourth Statement (No. 104):

(1) The United States of America refers to declarations made by various Member States reserving their right to take such action as they may consider necessary to safeguard their interests with respect to application of provisions of the Constitution and Convention of the International Telecommunication Union (Geneva, 1992), and any amendments thereto. The United States of America reserves the right to take whatever measures it deems necessary to safeguard U.S. interests in response to such actions.

(2) The United States of America, noting Statement 80 entered by the delegation of Cuba, recalls its right to broadcast to Cuba on appropriate frequencies free of jamming or other wrongful interference and reserves its rights with respect to existing interference and any future interference by Cuba with U.S. broadcasting. Furthermore, the United States of America

> notes that its presence in Guantanamo is by virtue of an international agreement presently in force and that the United States of America reserves the right to meet its radicommunication requirements there as it has in the past.

The first paragraph of this proposed statement reserves the right of the United States to take such actions as it deems necessary in response to actions taken by other Member States that are detrimental to U.S. telecommunication interests. The second paragraph of this proposed statement responds to a statement made by Cuba, which concerns the use of radio frequencies by the United States at the U.S. naval base at Guantanamo, Cuba. This response, which reserves certain U.S. broadcasting rights, is similar to responses made by the United States at prior ITU conferences.

Fifth Statement (No. 106):

> The delegations of the above-mentioned States [the United States and eight other States], referring to the declarations made by the Republic of Colombia (No. 58), Mexico (No. 34) and Ecuador (No. 55), inasmuch as these and any similar statements refer to the Bogotμ Declaration of 3 December 1976 by equatorial countries and to the claims of those countries to exercise sovereign rights over segments of the geostationary-satellite orbit, or to any related claims, consider that the claims in question cannot be recognized by this Conference.
>
> The above-mentioned delegations also wish to state that the reference in Article 44 of the Constitution to the "geographical situation of particular countries" does not imply recognition of a claim to any preferential rights to the geostationary-satellite orbit.

This proposed statement responds to statements by other countries concerning the use of the geostationary satellite orbit or related claims.

Final Declaration:

> This Treaty is not self-executing.

This proposed declaration states that the 2006 Amendment is not self-executing. The Senate has rarely included statements regarding the self-executing nature of treaties in resolutions of advice and consent, but in light of the recent Supreme Court decision, Medellín v. Texas, *128 S.Ct. 1346 (2008), the committee has determined that a clear statement in the resolution is warranted. A further discussion of the committee's views on this matter can be found in Section VIII of Executive Report 110–12.*

VIII. Resolutions of Advice and Consent to Ratification

1998 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO RESERVATIONS AND DECLARATIONS.

The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Pleni-

potentiary Conference (Kyoto 1994), signed by the United States at Minneapolis on November 6, 1998, as contained in the Final Acts of the Plenipotentiary Conference (Minneapolis 1998) (the "1998 Final Acts") (Treaty Doc. 108–5), subject to declarations and reservations Nos. 90(second paragraph), 90(third paragraph), 101, 102, and 111 of the 1998 Final Acts and the declaration of section 2.

SECTION 2. DECLARATION

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

2002 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO RESERVATIONS AND DECLARATIONS.

The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994) and the Plenipotentiary Conference (Minneapolis 1998), signed by the United States at Marrakesh on October 18, 2002, as contained in the Final Acts of the Plenipotentiary Conference (Marrakesh 2002) (the "2002 Final Acts") (Treaty Doc. 109–11), subject to declarations and reservations Nos. 70(second paragraph), 70(third paragraph), 71, 79, 80, and 101 of the 2002 Final Acts and the declaration of section 2.

SECTION 2. DECLARATION

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

2006 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Resolved (two-thirds of the Senators present concurring therein),

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO RESERVATIONS AND DECLARATIONS.

The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), the Plenipotentiary Conference (Minneapolis 1998), and the Plenipotentiary Conference (Marrakesh 2002), signed by the United States at Antalya on November 24, 2006, as contained in the Final Acts of the Plenipotentiary Conference (Antalya 2006) (the "2006 Final Acts") (Treaty Doc. 110–16), subject to declarations and reservations Nos. 70(1)(second paragraph), 70(1)(third paragraph), 70(2), 104, and 106 of the 2006 Final Acts and the declaration of section 2.

SECTION 2. DECLARATION

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

○